

EVENT VIOLATION
INSPECTOR'S STATEMENT
MINERALS REGULATORY PROGRAM

Company/Mine: Broken Arrow/Ophir Limestone
Permit #: S/045/067

CO # MC-2005-03-07-01-
Violation # 1 of 3

SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation.** Mark and explain each event.

- | | | |
|--------------------------|----|--|
| <input type="checkbox"/> | a. | Activity outside the approved permit area. |
| <input type="checkbox"/> | b. | Injury to the public (public safety). |
| <input type="checkbox"/> | c. | Damage to property. |
| X | d. | Conducting activities without appropriate approvals. |
| <input type="checkbox"/> | e. | Environmental harm. |
| <input type="checkbox"/> | f. | Water pollution. |
| <input type="checkbox"/> | g. | Loss of reclamation/revegetation potential. |
| <input type="checkbox"/> | h. | Reduced establishment, diverse and effective vegetative cover. |
| <input type="checkbox"/> | i. | No event occurred as a result of the violation. |
| <input type="checkbox"/> | j. | Other. |

Explanation: The operator was conducting mining operations without filing a notice of intention or a reclamation surety.

2. Has the event or damage occurred? Yes
If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: The operator was conducting the activity, but, as discussed below, there was likely little or no harm.

3. Did any damage occur as a result of the violation? No

4.

If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: The operator was mining in a previously disturbed area, and I could not tell that there had been any damage to the environment or to the health and safety of the public.

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).

- ☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: _____

- ☒ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: The operator's representative explained that he thought it was not necessary to file a notice of intention on private land. This operator has dealt with the Division for other operations, and I feel he should have known to call and see if it was necessary to file the notice.

- ☐ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: _____

- ☐ Was the operator in violation of a specific permit condition?

Explanation: _____

- ☐ Has DOGM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: _____

Was any economic benefit gained by the operator for failure to comply? Yes
If yes explain.

Explanation: Since the operator had to pay the permit fee and the reclamation bond, there was probably not an economic benefit for failing to comply, but if the operation had not been found, there would have been an economic benefit through not having to submit the fee and bond.

GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: The operator came to the Division's office the same day as the cessation order was issued and filed a Notice of Intention to Commence Small Mining Operations. The reclamation surety was submitted the next day. I have never seen an operator submit the information this quickly.

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: _____

3. Was the submission of plans prior to physical activity required by this NOV / CO? Yes If yes, explain.

Explanation: The operator had to file a small mine notice and a reclamation contract

Paul B. Baker
Authorized Representative


Signature

10/20/2005
Date